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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,267	01/27/2004	Raymond Willis Blodgett JR.	18393-512	3429

7590 03/08/2005

INSKEEP INTELLECTUAL PROPERTY GROUP, INC.

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EXAMINER

PEDDER, DENNIS H


ART UNIT

PAPER NUMBER

3612

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/766,267	Applicant(s) BLODGETT, RAYMOND WILLIS	
	Examiner Dennis H. Pedder	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 6-14, 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by McManus et al..

See figure 11, first frame member 280, and second frame member with first and second support rails 284,286 and floor 24.

As to claim 6, see intervening gear rack 288/290.

As to claim 8, see figure 9 and 272/222.

As to claim 11, McManus et al. has multiple frame members.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over McManus et al..

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Welding is a commonly known method of attachment, desirable in that it is very strong and quickly accomplished. It would have been obvious to one of ordinary skill to provide in McManus et al. welded attachment as commonly known.

As applicant has not challenged this statement of judicial notice, it is made final.

5. Claims 4-5, 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus et al. in view of Smith.

McManus et al. uses channel shaped beams. Smith teaches that vehicle support beams are interchangeably channel, I, H, right circular, cylindrical, tubular, or rectangular in cross section. It would have been obvious to one of ordinary skill to provide in McManus et al. rectangular or tubular support rails as taught by Smith as a known alternative in the art. Motivation is increased strength of the additional wall as an engineering trade-off to increased weight and cost.

6. Claims 18, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over McManus et al. in view of Schneider, US 5,902,001.

McManus et al. uses offset floor heights, a distinct disadvantage in the necessary step between floors as a tripping hazard. It would have been obvious to one of ordinary skill to provide in McManus et al. flush floors aligned as taught by Schneider, positioning the rack drive below the floor, in order to avoid these hazards.

Response to Amendment

7. The affidavit filed on 1/19/2005 under 37 CFR 1.131 has been considered but is ineffective to overcome the above cited reference to McManus et al.

The affidavit is defective in establishing a reduction to practice prior to the effective date of October 24, 2000, conception prior to the effective date coupled with due diligence from prior to the date to a reduction to practice or filing date of the application.

The affidavit 1) lacks any exhibits 1-4, showing only a series of pages not labeled as exhibits, 2) has no nexus between the alleged fax, which cover page is not identified with the invention in any manner, and the attached pages which have no date and no indication that they were, in fact, faxed on the alleged date, 3) has no indication that the alleged product quote is identified in any manner with the invention of dual rail slide out support, 4) no indication that the 3rd page set was a draft of the patent application, and no indication that the final draft cover letter is associated with the invention of this application, and 5) shows no diligence at all.

Applicant has extensively redacted the pages attached to this affidavit. Whether reinserting this redacted information would assist the veracity of the affidavit is unknown at this time.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

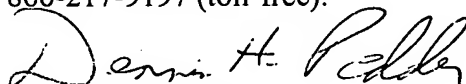
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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis H. Pedder whose telephone number is (703) 308-2178. The examiner can normally be reached on 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dennis H. Pedder
Primary Examiner
Art Unit 3612

3/2/05

DHP
3/2/2005